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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,279

10/29/2003

Joseph D. Rainville

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6502

65798 7590 12/17/2007  
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EXAMINER

HODGE, ROBERT W

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

12/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/696,279

Applicant(s)

RAINVILLE, JOSEPH D.

Examiner

Robert Hodge

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments, see Remarks, filed 3/14/07, with respect to the rejections of claims 1-3 and 5-9 have been fully considered and are persuasive. The rejections of claims 1-3 and 5-9 have been withdrawn. With regards to the Obviousness type Double Patenting rejections, they are also withdrawn because this application is earlier filed and is now in a condition for allowance.

### *Allowable Subject Matter*

This application is in condition for allowance except for the presence of claims 15-20 directed to an invention non-elected with traverse in the reply filed on 10/26/06. Applicants petitioned to have the Restriction Requirement removed on 3/14/07; a petition decision was made on 12/4/07 denying the removal of the requirement for Restriction under 37 CFR 1.144 thus affirming the Examiner's position.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

Claims 1-14 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art made of record does not teach or fairly suggest a fuel cell system comprising a bi-directional mass flow meter. There is also no motivation for a person of

ordinary skill in the art to substitute a bi-directional mass flow meter into the closest prior art, which is AAPA. Doing so would completely alter the operation of the system and would require a different controller configuration to operate said bi-directional mass flow meter. It is further noted that the mass flow meter of AAPA is not capable of measuring air flow in a forward or reverse direction. Standard mass flow meters such as disclosed in AAPA are only capable of uni-directional air flow measurements and therefore a mass flow meter according to AAPA is not capable of the functional limitations as presented in the amendment to claim 1 filed 3/14/07 and as stated above there is no motivation to substitute a device for the a mass flow meter of AAPA, that is capable of measuring air flow in a forward and reverse direction in the prior art for a person having ordinary skill in the art to modify AAPA to meet the functional limitations of claim 1.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Hodge whose telephone number is (571) 272-2097. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RWH

  
**JONATHAN CREPEAU**  
PRIMARY EXAMINER